

# **VIRGINIA BOARD OF DENTISTRY**

## **AGENDA**

**June 11 and 12, 2009**

**Department of Health Professions**

**Perimeter Center - 9960 Mayland Drive, 2nd Floor Conference Center -Richmond, Virginia 23233**

### **June 11, 2009**

**9:00 a.m. Formal Hearings**

### **June 12, 2009**

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**8:15 a.m. Executive Committee – Dr. Gokli, Chair**

- Approval of Minutes
  - March 13, 2009EC1-EC2
- Standards for Professional Code of Conduct – Dr. LevinEC3-EC8

**9:00 a.m. Board Meeting**

**Call to Order – Dr. Gokli, President**

**Evacuation Announcement – Ms. Reen**

**Public Comment**

**Approval of Minutes**

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**DHP Director's Report – Ms. Whitley-Ryals**

- DHP Performs

**Dental Assistant Apprenticeship Program –**

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Ms. Donati – Department of Labor and Industry &  
Ms. Westerman –Virginia Community College System

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- Executive Committee – Dr. Gokli
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- SRTA – Dr. Watkins

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| • Disciplinary Case Consultant's Evaluation – Dr. Levin | 57-56 |
| • CODA Letter about VCU Endodontics Program             | 67-68 |
| • Letter from Discus Dental                             | 69-70 |
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**Dentistry's Administrative Proceedings – James Banning, Director  
Administrative Proceedings Division of DHP**

**Report on Case Activity – Mr. Heaberlin**

**Executive Director's Report/Business – Ms. Reen**

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**Board Counsel Report – Mr. Casway**

**Adjourn**

# **Executive Committee Meeting**

**UNAPPROVED - DRAFT**

**BOARD OF DENTISTRY  
MINUTES OF EXECUTIVE COMMITTEE**

**Friday, March 13, 2009**

**Department of Health Professions  
9960 Mayland Drive, 2<sup>nd</sup> Floor  
Henrico, Virginia 23233  
Training Room 2**

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**CALL TO ORDER:** The meeting was called to order at 8:15 a.m.

**PRESIDING:** Meera A. Gokli, D.D.S., President

**MEMBERS PRESENT:** Jeffrey Levin, D.D.S.  
Jacqueline Pace, R.D.H.  
Paul N. Zimmet, D.D.S.  
James D. Watkins, D.D.S.

**STAFF PRESENT:** Sandra Reen, Executive Director

**COUNSEL PRESENT:** Howard Casway, Senior Assistant Attorney General

**QUORUM:** All members were present.

**PUBLIC COMMENT:** None

**APPROVAL OF MINUTES:** Dr. Gokli requested a motion for approval of the minutes of the December 7, 2007 and December 12, 2008 meetings of the Committee. Dr. Zimmet moved the approval of the minutes. The motion was seconded and passed.

**CODE OF CONDUCT FOR BOARD MEMBERS:** Dr. Gokli asked Dr. Levin to review the Code of Conduct he had prepared. He provided a handout with additional editing and reviewed that draft. Dr. Gokli asked about the intent of the provision for not speaking on behalf of the Board without permission. She also recommended combining two of the points. Following discussion Ms. Reen was asked to use the language presented by Dr. Levin and the format of the draft in the agenda package for action at the next Board meeting. It was agreed that the Code of Conduct should be proposed as an addition to the Board's bylaws.

**PROFESSIONAL CODE OF CONDUCT:** Dr. Levin advised that he had begun development of a discussion draft, noting that additional work was needed and the draft will be ready for the June meeting.

**COMMUNICATION WITH LICENSEES:** Ms. Reen asked for guidance on providing information periodically to licensees. She advised that it was unlikely

that the Board would ever get to a point where it has all the resources needed to publish periodic newsletters. She asked if providing information in a flyer format, which identifies current topics and refers readers to source documents, i.e. minutes, guidance documents, laws and regulations, might be an acceptable alternative. She noted that this would avoid the development time and multiple reviews and editing that are required for a traditional newsletter and would promote visits to the Board's web page. The Committee agreed that the flyer approach should be tried. The Committee agreed to Dr. Watkins's suggestion that the Secretary Treasurer of the Board be charged with developing the flyer with assistance from the executive director. Ms. Reen indicated that it might be possible to do a flyer every six months. Ms. Pace agreed to begin work on a flyer.

Dr. Watkins expressed his concern about licensees not keeping up with changes in laws and regulations and asked if the Board should require licensees to take the dental law exam periodically. The Committee discussed that passage of the law exam once every five years would enforce the need for keeping abreast of changes and recommended that this be addressed in regulatory review.

**ADJOURNMENT**

With all business concluded, the Committee adjourned at 9:00 a.m.

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Meera A. Gokli, D.D.S., President

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Sandra K. Reen, Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## DISCUSSION DRAFT

### Standards for Professional Conduct In The Practice of Dentistry

#### Preamble

The Standards for Professional Conduct for licensees of the Virginia Board of Dentistry establishes a set of principles to govern the conduct of licensees in the profession of dentistry. Licensees must respect that the practice of dentistry is a privilege which requires a high position of trust within society. The Board maintains that adherence to these standards will safeguard patients, uphold the laws and regulations governing practice and maintain the public trust. The standards are an expression of types of conduct that are either required or encouraged and that are either prohibited or discouraged to provide further guidance on the requirements for practice set out in the Code of Virginia and the Regulations Governing the Practice of Dentistry and Dental Hygiene.

#### Scope of Practice

- Keep knowledge and skills current. The privilege, professional status, and a license to practice derive from the knowledge, skill, and experience needed to safely serve the public and patients.
- Seek consultation, if possible whenever the welfare of patients will be safeguarded or advanced by utilizing the knowledge and skills of those who have special skills, knowledge and experience, or advanced training.
- Do not prescribe treatment or use diagnostic techniques or diagnose, cure, or alleviate diseases, infections or other conditions that are not within the scope of the practice of dentistry or that are not based upon accepted scientific knowledge or research.
- Do not treat or prescribe for yourself.

#### Treating or Prescribing for Family

- Only treat and prescribe based on a bona-fide practitioner-patient relationship, and prescribe by criteria set forth in §54.1-3303 of the Code of Virginia.
- Do not prescribe to a family member a controlled substance or a medicine outside the scope of dentistry.
- When treating a family member or a patient maintain a patient record documenting a bona-fide practitioner-patient relationship.

#### Staff Supervision

- Protect the health of patients by only assigning to qualified auxiliaries those duties which can be legally delegated.
- Prescribe and supervise the patient care provided by all auxiliary personnel in accordance with the correct type of supervision.

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- Maintain documentation that staff has current licenses, certificates for radiology, up-to-date vaccinations, CPR training, HIPPA training, and OSHA training in personnel files.
- Display documents that are required to be posted in the patient receiving area so that all patients might see and read them.
- Be responsible for the professional behavior of staff towards patients and the public at all times.
- Avoid unprofessional behavior with staff in order to maintain the esteem and integrity of the dental profession.
- Provide staff with a safe environment at all times.
- Provide staff with opportunities for continuing education that will keep treatment and services up-to-date and allow staff to meet continuing education requirements
- Supervise staff in dispensing, mixing and following the instruction for materials to be used during treatment.
- Instruct the staff to inform the dentist of any event in the office concerning the welfare of the patient regarding exposures or blood borne pathogens

### Practitioner-Patient Communications

- Before performing any dental procedure, accurately inform the patient or the guardian of a minor patient of the diagnoses, prognosis and the benefits, risks, and treatment alternatives to include the consequences of doing nothing.
- Inform the patient of proposed treatment and any reasonable alternatives, in understandable terms to allow the patient to become involved in treatment decisions.
- Acquire informed consent of a patient prior to performing any treatment.
- Refrain from harming the patient and from recommending and performing unnecessary dental services or procedures.
- Specialists must inform the patient that there is a need for continuing care when they complete their specialized care and refer patients to a general dentist or another specialist to continue their care.
- Immediately inform any patient who may have been exposed to blood or other infectious material in the dental office or during a procedure about the need for post exposure evaluation and follow up and to immediately refer the patient to a qualified health care professional
- Do not represent the care being rendered to their patients in a false or misleading manner.
- Inform the patient orally and note in the record any deviation in a procedure made due to dentist's discretion or a situation that arises during treatment that could delay completion of treatment or affect the prognosis for the condition being treated.
- Inform the patient about the materials used for any restoration or procedure such as crowns, bridges, restorative materials, ingestibles, and topicals as to risks, alternatives, benefits, and costs, as well as describing the materials, procedures, or special circumstances in the patient's notes.

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- Do not remove amalgam restorations from a non-allergic patient for the alleged purpose of removing toxic substances from the body. The same applies to removing any other dental materials.

### Patient of Record

- A patient becomes a patient of record when the patient is seated in the dental chair and examination and diagnosis of the oral cavity is initiated.
- In §54.1-2405(B) of the Code of Virginia, "current patient" means a patient who has had a patient encounter with the provider or his professional practice during the two-year period immediately preceding the date of the record transfer.

### Patient Records

- Maintain treatment records that are timely, accurate, legible and complete.
- Note all procedures performed as well as substances and materials used.
- Note all drugs with strength and quantity administered and dispensed.
- Safeguard the confidentiality of patient records.
- Upon request of a patient or an authorized dental practitioner, provide any information that will be beneficial for the welfare and future treatment of that patient.
- On request of the patient or the patient's new dentist timely furnish gratuitously or at a reasonable cost, legible copies of all dental and financial records and readable copies of x-rays. This obligation exists whether or not the patient's account is paid in full.
- Comply with §32.1-127.1:03 of the Code of Virginia related to the confidentiality and disclosure of patient records.
- Post information concerning the time frame for record retention and destruction in the patient receiving area so that all patients might see and read it.
- Patient records shall only be destroyed in a manner that protects patient confidentiality, such as by incineration or shredding.
- Maintain records for not less than three years from the last date of treatment for the Board of Dentistry and maintain records for longer periods of time to meet contractual obligations or requirements of federal law.
- When closing, selling or relocating a practice, meet the requirements of §54.1-2405 of the Code of Virginia for giving notice and providing records.

### Financial Transactions

- Do not accept or tender "rebates" or split fees with other health professionals.
- Maintain a listing of customary fees and represent all fees being charged clearly and accurately.
- Do not use a different fee without providing the patient or third party payers a reasonable explanation which is recorded in the record.
- Return fees to the patient or third party payers in a timely manner if a procedure is not completed or the method of treatment is changed.



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- Do not accept a third party payment in full without disclosing to the third party that the patient's payment portion will not be collected.
- Do not increase fees charged to a patient who is covered by a dental benefit plan.
- Do not incorrectly describe a dental procedure in order to receive a greater payment or reimbursement or incorrectly make a non-covered procedure appear to be a covered procedure on a claim form.
- Do not certify in a patient's record or on a third party claim that a procedure is completed when it is not completed.
- Do not use inaccurate dates that are to benefit the patient; false or misleading codes; change the procedure code to justify a false procedure; falsify a claim not having done the procedure, or expand the claim.
- Avoid exploiting the trust a patient has in the professional relationship when promoting or selling a product by: advising the patient or buyer if there is a financial incentive for the dentist to recommend the product; providing the patient with written information about the product's contents and intended use as well as any directions and cautions that apply to its use; and, informing the patient if the product is available elsewhere.
- Do not misrepresent a product's value or necessity or the dentist's professional expertise in recommending products or procedures.

### Relationships with Practitioners

- Upon completion of their care, specialists or consulting dentists are to refer back to the referring dentist, or if none, to the dentist of record for future care unless the patient expresses a different preference.
- A dentist who is rendering a second opinion regarding a diagnosis or treatment plan should not have a vested interest in the patient's case and should not seek to secure the patient for treatment unless selected by the patient for care.

### Practitioner Responsibility

- Once a course of treatment is undertaken, the dentist shall not discontinue that treatment without giving the patient adequate notice and the opportunity to obtain the services of another dentist. Emergency care must be provided during the notice period to make sure that the patient's oral health is not jeopardized.
- Only prescribe, dispense, and utilize those devices, drugs, dental materials and other agents accepted for dental treatment.
- Make reasonable arrangements for the emergency care of patients of record.
- Exercise reasonable discretion in the selection of patients. Dentists may not refuse patients because of the patient's race, creed, color, sex, or national origin.
- Do not refuse to treat a patient because the individual has AIDS, is HIV positive, or has had hepatitis. Use a proper protocol in the office to protect the public and staff.
- Follow the rules and regulations of HIPPA, OSHA, FDA, and the laws governing health practitioners in the Code of Virginia.

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- Be knowledgeable in providing emergency care and have an acceptable emergency plan with delegated duties to the staff in written form, maintain accurate records and be current in basic CPR.
- Avoid interpersonal relationships with patients and staff that could impair professional judgment or risk the possibility of exploiting the veracity and confidence placed in the doctor-patient relationship.

### Advertising Ethics

- Do not hold out as exclusive any device agent, method, or technique if that representation would be false or misleading in any material respect to the public or patients.
- When you advertise, fees must be included stating the cost of all related procedures, services and products which to a substantial likelihood are necessary for the completion of the service as it would be understood by an ordinarily prudent person.
- Disclose the complete name of a specialty board or other organization which conferred certification or another form of credential.
- Do not claim to be a specialist or claim to be superior in any dental specialty or procedure unless you have attained proper credentials from an advanced postgraduate education program accredited by the Commission on Dental Accreditation of the American Dental Association.

### Reports and Investigations

- Cooperate with any investigation initiated by an investigator or inspector from the Department of Health Professions on behalf of the Board and timely provide information and records as requested.
- Allow staff to cooperate with any investigation initiated by an investigator or inspector from the Department of Health Professions on behalf of the Board.
- Report the adverse reaction of a drug or dental device to the appropriate medical and dental community and in the case of a serious event to the Food and Drug Administration or Board of Dentistry.
- Provide expert testimony when that testimony is essential to a just and fair disposition of a judicial or administrative action.
- Become familiar with the special signs of child abuse and report suspected cases to the proper authorities consistent with §63.2-1509 of the Code.
- Report to the Board of Dentistry instances of gross or continually faulty treatment by other dentists.

### Notice

This guidance document does not address every law and regulation which governs the practice of dentistry. To fully understand your legal responsibilities you should periodically review the laws, regulations, notices and guidance documents provided on the Board of Dentistry webpage, [www.dhp.virginia.gov/dentistry](http://www.dhp.virginia.gov/dentistry).

## DISCUSSION DRAFT

Adopted: